

ORDINANCE NO. 08-04-021

TO AMEND TITLE 15 OF THE CITY OF LOCUST GROVE CODE OF ORDINANCES WHICH PROVIDES FOR BUILDING AND CONSTRUCTION; TO CREATE CHAPTER 15.35 ENTITLED "STORMWATER MANAGEMENT UTILITY"; STATING FINDINGS REGARDING STORMWATER MANAGEMENT NEEDS IN THE CITY; ESTABLISHING A "STORMWATER MANAGEMENT UTILITY" AS A DEDICATED ENTERPRISE ACCOUNTING UNIT OF THE UTILITY DEPARTMENT; STATING THE SERVICE AREA, PURPOSES, AND POWERS OF THE UTILITY; PROVIDING DEFINITIONS; STATING GENERAL SERVICE CHARGE RATE POLICIES; DECLARING THAT INDIVIDUAL SECTIONS OF THIS ORDINANCE SHALL BE SEVERABLE ONE FROM ANOTHER; ESTABLISHING AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Locust Grove is responsible for the protection and preservation of the public health, safety, and welfare of the community; and

WHEREAS, the City Council of the City of Locust Grove is authorized by Article IX, Section II, Paragraph III(a)(6) of the Georgia Constitution and Official Code of Georgia Section 36-82-62(a)(2,3), as amended, to provide stormwater management throughout the incorporated area of the City of Locust Grove; and

WHEREAS, the federal Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. 1251, *et seq.*) and rules promulgated by the United States Environmental Protection Agency pursuant to the Act, place increased emphasis on the role of local governments in developing, implementing, conducting and funding stormwater management programs which address water quality impacts of stormwater runoff; and

WHEREAS, stormwater runoff contributes to flooding problems and drainage needs including pollution and environmental degradation of the City's watersheds and a Stormwater Management Program can reduce and/or mitigate the related problems and address the various needs; and

WHEREAS, all developed real property in the City, including property owned by public and tax-exempt entities, contributes to runoff and creates a demand and associated costs of stormwater management and/or uses or benefits from the stormwater system; and

WHEREAS, the City of Locust Grove has completed a study and financial analysis of the program priorities, management problems, needs, goals, and funding options, and the same has been examined and reviewed by the City Council; and

WHEREAS, the City Council finds and concludes from the study and financial analysis that substantial stormwater management program operational and capital investment needs exist; and

WHEREAS, the study and financial analysis indicates that adequate, stable, and dedicated funding will be essential if the City is to meet its future stormwater management program operational and capital investment needs; and

WHEREAS, it is in the best interest of the public to fund stormwater management with an equitable fee system that fairly allocates the cost of stormwater management to all properties contributing to the cost and demand for the stormwater system and its effective and appropriate management; and

WHEREAS, it is the desire of the Mayor and City Council to proceed with the development, implementation, and operation of a Stormwater Management Utility accounted for in the City budget as a separate enterprise fund dedicated solely to stormwater management and to institute funding methods associated therewith.

THE COUNCIL OF THE CITY OF LOCUST GROVE HEREBY ORDAINS

SECTION 1. New Chapter Created. Title 15 of the Code of Ordinances of the City of Locust Grove, Georgia, is hereby amended by creating a new Chapter 15.35 entitled “Stormwater Management Utility”.

SECTION 2. New Code Sections Created. Title 15, Chapter 15.35 of the Code of Ordinances of the City of Locust Grove, is hereby amended by creating new code sections 15.35.010 through 15.35._____ as follows:

Section 15.35.010 Findings.

The City Council of the City of Locust Grove, Georgia makes the following findings:

- (A) The study and financing analysis, known as the Stormwater Management Action Plan, prepared by the City of Locust Grove properly assesses and defines the stormwater management problems, needs, goals, program priorities and funding opportunities of the City.
- (B) Given the problems, needs, goals, program priorities, and funding opportunities identified in the professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater systems in Locust Grove in concert with other water resource management programs.
- (C) Stormwater management is applicable and needed throughout the corporate limits of Locust Grove. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management service area encompassing all lands and water bodies within the corporate limits of Locust Grove is consistent with the present and future needs of the community.

- (D) The stormwater needs in the City of Locust Grove include, but are not limited to, protecting the public health, safety, and welfare. Provision of stormwater management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of Locust Grove in a variety of ways as identified in the professional engineering and financial analysis. The service and benefit rendered or resulting from provision of stormwater management systems and facilities may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater systems and programs, and risk exposure.
- (E) The City of Locust Grove presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the City, and of additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in Locust Grove in concert with the management of other water resources in the City. In order to do so, the City must have adequate and stable funding for its stormwater management program operating and capital investment needs.
- (F) The City Council finds, concludes and determines that a Stormwater Management Utility provides the most practical and appropriate means of properly delivering and funding stormwater management services in Locust Grove.
- (G) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to the burden of stormwater quality control service requirements and costs posed by properties throughout the City. Such schedule of service charges can be complemented by other funding methods which address specific needs, including but not limited to, allocations of special purpose local options sales taxes to stormwater drainage improvement projects. A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the City. Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the City, and therefore is an appropriate parameter for calculating stormwater service charges and associated credits. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including but not limited to, the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.

Section 15.35.020 Establishment of a Utility and Enterprise Fund

- (A) There is hereby established a Stormwater Management Utility within the Locust Grove Utility Department which shall be responsible for stormwater management throughout the City's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities. Such utility shall be under the direction of a Stormwater Utility Director, appointed by the City Manager.
- (B) The City Manager and City Clerk shall establish a stormwater enterprise fund in the City budget and accounting system, separate and apart from its General Fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the City Council. All revenues and receipts of the stormwater utility shall be deposited promptly upon receipt into the Stormwater Enterprise Fund, to be held and invested in trust for the purposes dedicated, and expended exclusively for purposes of the utility, including capital project construction. No other funds of the City shall be deposited in the Stormwater Enterprise Fund or commingled with dedicated stormwater revenues, except that other revenues, receipts, and resources not accounted for in the Stormwater Enterprise Fund, including, but not limited to, grants, transfers of City funds, loans, and bond proceeds may be combined with and applied to stormwater management capital projects as deemed appropriate by the City Council, upon recommendation of the City Manager.
- (C) The City Council hereby transfers to the Stormwater Utility Director operational control over the existing stormwater management systems and facilities owned and heretofore operated by the City and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment.

Section 15.35.030 Definitions.

- (A) ***Credit*** shall mean a conditional reduction in the amount of a stormwater service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by property owner, which system, facility, service, or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the site.
- (B) ***Customers of the Stormwater Management Utility*** shall include all persons, properties, and entities owning developed real properties served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto.

- (C) ***Detached Dwelling Unit/Single Family Residential Unit*** shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: structures used primarily for non-residential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes, or multiple dwelling unit residential properties.
- (D) ***Developed Land*** shall mean all real property altered from its natural state by grading, paving, compaction, construction of structures, impervious services, or drainage works so that hydrologic response of the property is changed from that which would occur in the natural undeveloped condition.
- (E) ***Duplexes and Triplexes*** shall mean developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land.
- (F) ***Equivalent Runoff Unit (ERU)*** is defined to serve as a reference point for comparing dissimilar properties and attaining an equitable distribution of the cost of services and facilities through a stormwater management service charge. The equivalent runoff unit in Locust Grove has been determined to include one primary parameter with the following metric: 2,768 square feet of impervious area. This unit will be used to determine and compute the service charge for all properties within Locust Grove.
- (G) ***Hydrologic Response*** of a property is the manner and means whereby stormwater collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area; the size, shape, topographic, vegetative, and geologic conditions of a property; antecedent moisture conditions; and groundwater conditions on a property.
- (H) ***Impervious*** means not allowing the passage of water through the surface on the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering as it would under natural conditions. The following types of surfaces will be considered

“impervious” for purposes of the stormwater utility: the projected area of buildings; asphalt-, concrete-, brick-, or stone-paved areas; improved vehicular drives and parking areas; compacted gravel and soil surfaces; fabric or plastic coverings; and other surfaces that prevent or impede the natural infiltration of stormwater runoff or that change the hydrologic response of the property that existed prior to development.

- (I) ***Multiple Dwelling Unit Residential Properties*** shall mean developed land whereon four or more attached residential dwelling units are located and shall include, but not limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands.
- (J) ***Non-Residential Developed Land*** shall mean, but shall not be limited to, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.
- (K) ***Service Charges*** shall mean the periodic rate, fee, or charge applicable to a parcel of land, which charge shall be reflective of the service provided by the City of Locust Grove stormwater utility. Service charges are based on measurable parameters which influence the stormwater utility’s cost of providing services and facilities, with the most important factor being the amount of impervious area on each parcel of land. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or the grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose impact on the stormwater utility’s cost of providing stormwater management services and facilities is relatively consistent. Stormwater service charges may also include special charges to the owners of particular properties for services or facilities uniquely related to stormwater management of that property, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced level of stormwater services above those normally provided by the City.
- (L) ***Stormwater Management Systems*** shall include facilities, operations, and programs that address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance,

regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of stormwater or surface water drainage.

- (M) ***Undeveloped Land*** is land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

Section 15.35.040 Scope of Responsibility for the City Stormwater System

- (A) The Stormwater Management Utility shall be responsible for stormwater management throughout the corporate limits of the Locust Grove Government. The utility shall provide for the conservation, management, protection, control, use, and enhancement of stormwater through planning, acquisition, construction, installation, management, operation, maintenance, regulation, extension, and improvement of the public stormwater systems to collect, control, convey, store, detain, retain, recharge, and treat stormwater and through regulation of stormwater management systems on private property. It shall be the long-term objective of the City to provide a comparable and consistent level of stormwater service to similarly situated properties throughout the service area.
- (B) The City Stormwater system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the City of Locust Grove which control and/or convey stormwater through which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which (1) are located within public streets, rights-of-way, and easements; (2) are subject to easements, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or (3) are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities.
- (C) Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the City of Locust Grove and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant, except as that responsibility may be otherwise affected by the laws of the State of Georgia and/or the United States of America.

- (D) It is the intent of this Ordinance to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City of Locust Grove. The City of Locust Grove expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity by or upon property not owned by the City, pursuant to this or any other regulatory ordinance, regulation or rule of the City or under Federal or State law, the issuance of such permit, plan approval, or inspection shall not be deemed to constitute a warranty, express or implied, nor shall afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the City, its officers, employees or agents.

Section 15.35.050 Requirements for On-Site Stormwater Systems; Inspections and Enforcement Methods

The appropriate and efficacious management of the stormwater management system by the City on behalf of all its citizens and in compliance with applicable state and federal law places necessary and appropriate obligations on private property owners as well. All property owners and developers of developed real property within the City of Locust Grove shall provide, manage, maintain, and operate on-site stormwater systems sufficient to collect, convey, detain, and discharge stormwater in a safe manner consistent with all City of Locust Grove development regulations and the laws of the State of Georgia and the United States of America. The City shall have the right, pursuant to the authority of this ordinance, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

Any failure to meet the obligations set forth in this Ordinance shall constitute a nuisance and be subject to an abatement action filed by the City in the Municipal Court. In the event a public nuisance is found by the Court to exist, which the owner fails to properly abate within such reasonable time as allowed by the Court, the City may enter upon the property and cause such work as is reasonably necessary to be performed. The actual cost thereof shall be assessed against the owner in the same manner as a tax levied against the property.

The City shall have lien rights from the date of the filing of the abatement action by the City, and said lien rights may be perfected through:

- (A) A judgment; and

(B) The filing of a writ of fieri facias against all property of the person or entity against whom the assessment was made. Upon issuance of said fi. fa., and forwarding of same to the Sheriff, the Sheriff shall be authorized pursuant to Georgia law to levy same upon the property of the owner to satisfy the amount due on the judgment.

These enforcement methods shall be perfected by filing a notice of lien on the General Execution Docket of the Superior Court of Henry County. A fi. fa. issued by any court in the State of Georgia can be recorded on the General Execution Docket of the Superior Court of any other county in the state in which the owner possesses property. When the execution has been entered upon the docket, the lien shall date from such entry.

State law reference: O.C.G.A. § 9-12-81(b).

Section 15.35.060 General Funding Policy

- (A) It shall be the policy of the City that funding for the stormwater utility is equitably derived through methods that have demonstrable relationships to the varied demands and costs imposed on the stormwater systems and programs and/or the level of service provided as a result of the provision of stormwater services and facilities.
- (B) Service charges for stormwater management shall be fair and reasonable and shall bear a substantial relationship to the cost of providing services and facilities. The cost of stormwater services and facilities may include administrative, operating, capital investment, debt service, engineering and planning, and reserve expenses, and may also include related regulatory expenses associated with watershed management requirements. Properties shall be charged rentals, rates, charges, fees, or licenses in proportion to their related cost of service impact.
- (C) Service charge rates shall be designed to be consistent and coordinated with the use of other funding methods employed for stormwater management by the City, whether within or outside the stormwater utility, including but not limited to plan review and inspection fees, special fees for services, fees in-lieu of regulatory requirements, impact fees, system development charges, and special assessments.

Section 15.35.070 Effective Date of Stormwater Charges

Stormwater service charges shall accrue beginning April 1, 2008, and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

Section 15.35.080 Stormwater Management Utility Service Charges

- (A) There are hereby established Stormwater Management Utility service charges that shall be billed to all properties in the Locust Grove service area, except as specific exemptions or credits may allow for in this Ordinance or shall allow in future ordinances or amendments to this Ordinance. The Stormwater Management

Utility service charges may, but are not required to, include a service rate charge applied to each property. The service rate charge, if applied, shall be related generally to the amount and quality of runoff discharged to the public stormwater systems and stormwater receiving waters and to the costs of services associated with stormwater management. The service charge may also include a base rate charge for certain costs of service common to all stormwater management accounts, and/or special service charges to persons, entities, or properties that require services and/or facilities not commonly needed by all persons, entities, or properties.

- (B) The service rate charge, if applied, shall be reflective of the cost of providing services and facilities to properly control stormwater runoff quantity and quality. The three most important factors in the City's present cost of providing stormwater management services and facilities to individual properties are: (1) the size of each property; (2) the amount of impervious area on each property; and (3) the number of parcels in the service area.
- (C) A base rate charge, if applied, shall be structured to recover those stormwater management costs of service that are not related to the size of individual properties or the amount of impervious area on individual properties, and may include, but are not limited to, the cost of billing and accounting for service charges to each account and other administrative and overhead expenses.
- (D) Special service charges, if applied, shall be structured to recover the cost of providing to certain persons, entities, and properties types or levels of stormwater management services that are not commonly required by all stormwater service charge ratepayers. Such services may include, but are not limited to, private development plan review and inspection, site inspections to verify the operational condition of on-site stormwater management systems, such as private detention/retention and conveyance facilities, monitoring and mitigative activities related to conditions on individual properties that impact water quality, and actions to abate conditions on private properties that do not comply with adopted City standards and/or that interfere with proper stormwater management and have been determined to constitute a public nuisance.
- (E) The study and management analysis conducted by the City determined that properties within the City service area classified as single-family residential property can be equitably and fairly charged based on the average area of impervious surface. This has been established as 2,768 square feet and comprises one (1) ERU. This method greatly simplifies the computation of charges and eliminates the significant costs associated with individual parcel measurements. The Mayor and City Council hereby adopts one (1) ERU as representative of the conditions of single-family residential property in Locust Grove.
- (F) Properties classified as nonresidential shall be billed on the basis of the number of ERU's and acres calculated or measured to exist. Each acre or fraction thereof and

ERU or fraction thereof shall be charged a service rate charge at the rate per ERU of impervious area and each acre unit as defined below.

- (G) The method of calculating the service rate charge for all properties shall be as follows:

$$\text{Parcel Fee} = (\text{IR}) \times (\text{ERU's}) + (\text{AR}) \times (\text{AU}) + (\text{AF})$$

IR is the impervious area rate as established by this Ordinance or by amendment to this Ordinance. It is applied to the number of **ERU's** rounded to the next whole number. An **ERU** is defined as 2,768 square feet of impervious area.

AR is the gross area rate as established by this Ordinance or by amendment to this Ordinance. It is applied to the number of acre units (**AU's**) in the parcel rounded to the next whole acre.

AF is the administrative cost factor established by this Ordinance or by amendment to this Ordinance. The **AF** is applied as a fixed uniform flat charge to each parcel.

- (H) The annual **IR** per **ERU** for the service rate charge applicable to each property shall be **\$36.00** unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this Ordinance, or changed hereafter by Ordinance.
- (I) The annual **AR** per **AU** for the service rate charge applicable to each property shall be **\$0.00** unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this Ordinance, or changed hereafter by Ordinance.
- (J) The annual base rate charge **AF** per each billed account shall be **\$2.21** unless changed hereafter by Ordinance.

Section 15.35.090 Exemptions and Credits Applicable to Stormwater Service Charges

Except as provided in this Section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in stormwater service charges shall be granted based upon property value or usage; the age, tax, or economic status, race, or religion of the customer; or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities. A *Stormwater Utility Service Charge Credit Manual* will be prepared by the City specifying the design, performance and maintenance standards of on-site systems, facilities, activities, and services which qualify application of a service charge credit, and how such credits shall be calculated. This manual will be separately approved by the City Council and, by reference, incorporated herein.

- (A) Undeveloped land as defined in this Ordinance shall be exempt from stormwater service charges.
- (B) Developed land other than single family residential units, including but not limited to multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, public streets, roads, alleys, and by-ways, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants may be eligible and receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the *Stormwater Utility Service Charge Credit Manual*. The stormwater service charge credit shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.
- (C) Any credit allowed against the service charge is conditioned on continuing compliance with the City's design and performance standards as stated in the *Stormwater Utility Service Charge Credit Manual* and/or upon continuing the provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the City at any time for non-compliance.
- (D) In addition to the foregoing credits based upon the design and performance of on-site systems, an educational credit shall be available to all public and private schools or school systems which agree to teach the WATER WISE program, an environmental science curriculum approved by the Georgia Department of Education, in grades one (1) through twelve (12). The educational credit shall be proportional to the extent the approved curriculum is taught. Educational credits may be taken in conjunction with any other credit available under this section. The superintendent of schools shall certify annually to the Stormwater Utility Director, before July 1, the extent to which the curriculum was taught.

Section 15.35.100 Stormwater Service Charge Billing, Delinquencies, Collections

- (A) Stormwater Management Utility service charges shall be billed and collected in the manner and at the interval deemed most efficient by the City, and shall be payable in accordance with the rules and regulations of the City Finance Department as applied generally to all bills. A stormwater service charge bill may be sent through the United States mail or by an alternate means notifying the customer of the amount of the bill, the date the payment is due, and the past due date. Failure to receive a bill is not justification for nonpayment. Regardless of the

party to whom the bill is initially directed, the owner of each parcel of developed land, as shown from public land records of Henry County, shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent, the City may back bill for a period of up to one year, but shall not assess penalties for any delinquency. A 1.5 percent per month late charge shall be billed based on the unpaid balance of any Stormwater Management Utility service charge that becomes delinquent.

- (B) The stormwater service charge may be billed on a common statement and collected with other utility services through separate bills or any other method by which the City could bill property owners.
- (C) Any Stormwater Management Utility service charge or portion of a service charge not paid when due may be recovered in an action at law or equity by the City.
- (D) In addition to any other remedies or penalties provided by this or any other Ordinance of the City, failure to pay any utility service charge when billed in conjunction with another utility bill may result in a discontinuance of any or all other utility services provided by the City or by other with whom contractual agreements provide for discontinuance of service for nonpayment. The owner of each property, building, premises, lot, or house shall be obligated to pay such fee, which shall be enforceable by the City by action at law or equity.
- (E) No lien shall be imposed for delinquent collections unless a judgment is first obtained from a court of competent jurisdiction.
- (F) Suits for collection shall be commenced by the City in the County of the owner's residence; provided, however, if the owner is not a resident of this State, suit may be filed in the Superior or State Court of Henry County, Georgia. If a suit is instituted by the City for collection, the owner shall pay court costs, litigation expenses, and reasonable attorney's fees incurred by the City.
- (G) If suit is instituted for the collection of any fees due hereunder or for the enforcement of this Ordinance, the owner shall pay the court costs, litigation expenses, and reasonable attorney's fees associated therewith.

Section 15.35.110 Appeals

Any customer who believes the provisions of this Article have been applied in error may appeal in the following manner:

- (A) An appeal must be filed in writing with the City of Locust Grove Stormwater Utility Director. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to

rainfall events. The appeal survey shall be submitted to the City in a digital format readable by CAD or GIS software. A paper copy may also be submitted.

- (B) Based on the information provided, a technical review shall be conducted by the Stormwater Utility Director of the Stormwater Management Utility and a written determination will be issued within thirty (30) days stating whether an adjustment to the service charge is appropriate and, if so, the amount of such adjustment.
- (C) In response to an appeal, the Stormwater Utility Director may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.
- (D) A decision of the Stormwater Utility Director which is adverse to an appellant may be further appealed to the City Manager within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Manager by the appellant, stating the grounds for the appeal. The City Manager shall issue a written decision on the appeal within thirty (30) days. All decisions of the City Manager shall be served on the appellant personally or by registered or certified mail, sent to the billing address of the appellant.
- (E) If the person or entity seeking adjustment or relief from the service charge desires, the decision of the City Manager may be appealed in writing to the Mayor and City Council. Such appeals must be made within thirty (30) days of the decision of the City Manager and include a written basis for the appeal. The decision of the Mayor and City Council shall be final.
- (F) This appeal process shall not interfere with the rights of the person or entity to seek judicial relief in a court of competent jurisdiction, but shall be exhausted before judicial relief is pursued. Any appeal to the Superior Court of Henry County must be filed within thirty (30) days of the decision of the Mayor and City Council.
- (G) Notices of the appeal and decisions shall be served personally or delivered by registered or certified mail to the address of record.

SECTION 3. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 4.

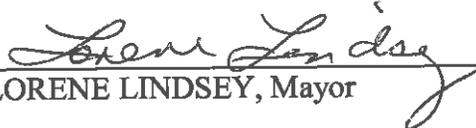
- (A) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

- (B) It is hereby declared to be the intention of the City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Ordinance.
- (C) In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 5. Repeal of Conflicting Provision. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 6. Effective Date. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Locust Grove.

SO ORDAINED THIS 7TH DAY OF April 2008.


LORENE LINDSEY, Mayor


THERESA BREEDLOVE, City Clerk

(seal)